UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

In re:

Alfredo Figueroa,
Annie R. Colon,

Debtors.
_______________________________________ /

Case No. 8:17-bk-03281-MGW
Chapter 7

AMENDED MOTION FOR ENTRY OF AN ORDER CONFIRMING THE AUTOMATIC STAY HAS TERMINATED AS TO REAL PROPERTY LOCATED AT: 2481 CREST DRIVE, HAINES CITY, FL 33844[1]

NOTICE OF OPPORTUNITY TO OBJECT AND REQUEST FOR HEARING

Pursuant to Local Rule 2002-4, the Court will consider the relief requested in this paper without further notice or hearing unless a party in interest files a response within 21 days from the date set forth on the attached proof of service, plus an additional three days for service if any party was served by U.S. Mail.

If you object to the relief requested in this paper, you must file a response with the Clerk of the Court at Sam M. Gibbons United States Courthouse, 801 N. Florida Avenue, Suite 555, Tampa, Florida 33602 and serve a copy on the movant's attorney, Renee M. Decker at Baker, Donelson, Bearman, Caldwell, & Berkowitz, PC, 100 S.E. 3rd Ave., Suite 1620, Fort Lauderdale, FL 33394, and any other appropriate persons within the time allowed. If you file and serve a response within the time permitted, the Court will either schedule and notify you of a hearing or consider the response and grant or deny the relief requested without a hearing.

If you do not file a response within the time permitted, the Court will consider that you do not oppose the relief requested in the paper, will proceed to consider the paper without further notice or hearing, and may grant the relief requested.

COMES NOW OCEANFIRST BANK, AS SUCCESSOR IN INTEREST TO COLUMBIA HOME LOANS, LLC ("OceanFirst"), secured creditor of the debtors Alfredo Colon and Annie R Colon (hereinafter "Debtors") with respect to the real property commonly known as 2481 Crest Drive, Haines City, Florida 33844 ("Property"), pursuant to Section

[1] Amended solely to add the Notice Of Opportunity To Object And Request For Hearing.

362(c)(3) of the United States Bankruptcy Code (11 U.S.C. §§ 101 *et seq.*) and Federal Rules of Bankruptcy Procedure 4001 and 9014, and hereby moves for entry of an order confirming that the automatic stay is not in effect as to the Property, and allowing OceanFirst to resume litigation, sale of the Property and other activities related to the Property, as if the above-captioned case were not pending (the "Motion"). In support of its Motion, OceanFirst states the following:

FACTS

1. On November 3, 2015, Debtors filed a voluntary Chapter 13 petition and schedules, whereby commencing a bankruptcy case under Title 11 of the United States Code, with the case style *In re Alfredo Figueroa and Annie R Colon*, Bankruptcy Case No., 8:15-bk-12068-RCT (the "Prior Bankruptcy Case").

2. In their Schedules filed in the Prior Bankruptcy Case, Debtors listed OceanFirst as having a secured claim on the Property.

3. On October 21, 2017, this Court entered and Order Denying Confirmation of Chapter 13 Plan and Dismissing Case in the Prior Bankruptcy Case [D.E. 49, Prior Bankruptcy Case].

4. On April 18, 2017, the Debtors filed a voluntary petition under Chapter 7 of the Bankruptcy Code, instituting the above captioned bankruptcy case (the "Current Case").

5. In their Schedules filed in the Current case, Debtors also listed OceanFirst as having a secured claim on the Property (the "Secured Claim").

6. The Current Case was filed three days short of sixth months after the Prior Bankruptcy Case was dismissed.

7. As a result, the Debtors have had two cases pending within the proceeding one year period.

LEGAL ARGUMENT

8. Section 362(c)(3) provides, in relevant part that:

> [I]f a single or joint case is filed by or against a debtor who is an individual in a case under chapter 7, 11, or 13 of this title, and if a single or joint case of the debtor was pending within the preceding 1-year period but was dismissed... (A) the stay under subsection (a) with respect to any action taken with respect to a debt or property securing such debt… shall terminate with respect to the debtor on the 30th day after the filing of the later case.

9. Since both the Prior Bankruptcy Case and the Current Case were pending within the proceeding one year period, and since the Prior Bankruptcy Case was dismissed, the automatic stay provided in Section 362(a) terminated thirty days after the date the Current Case was filed. 11 U.S.C. 362(c)(3).

10. The Current Case was filed on April 18, 2017. As a result, the automatic stay with respect to the Secured Claim expired on May 17, 2017.

11. As a result, OceanFirst states that it is entitled to an order confirming that automatic stay with respect to the Property and the Secured Claim secured by the Property terminated on May 17, 2017, pursuant to 11 U.S.C. § 362(j), which provides that on request of a party in interest, the court shall issue an order confirming that the automatic stay has been terminated.

WHEREFORE, OceanFirst respectfully requests that this Court enter an order:

(a) confirming that the automatic stay of 11 U.S.C. § 362(a) has terminated with respect to the Secured Claim and the Property;

(b) allowing OceanFirst to resume activities related to the Property, including any further litigation involved in the foreclosure action, the execution of the writ of possession and marketing of the Property for sale;

(c) if applicable, waiving the 14-day requirement pursuant to F.R.B.P. 4001(a)(3); and

(d) granting such other and further relief as the Court may determine to be just and appropriate.

Respectfully submitted this May 26, 2017.

/s/ Renee M. Decker
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CERTIFICATE OF SERVICE

I hereby certify that on May 26, 2017, I served a copy of the foregoing MOTION FOR ENTRY OF AN ORDER CONFIRMING THE AUTOMATIC STAY HAS TERMINATED AS TO REAL PROPERTY LOCATED AT: 2481 CREST DRIVE, HAINES CITY, FL 33844 electronically via CM/ECF or via U.S. mail to all parties/attorneys on the list to receive service/notice in this case, including but not limited to the following:

via CM/ECF

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/s/ *A. Renee Decker*
A. Renee Decker, Esq.